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Quality of Modern Law Books

MODERN decadence has been the favorite lament of many sorrowing souls, even from the ancient days, when the preacher of wisdom exhorted them: "Say not thou what is the cause that the former days were better than these, for thou dost not inquire wisely concerning this." But such lamentations are perennial and unescapable. It is so in legal affairs, as in everything else. There are lawyers in every generation who sadly say that the judges are much inferior in ability to those whom they used to know. This they fully believe, and they give various reasons for it; but they do not seem to know that the same complaint was made a generation before against the very judges whom they now look back upon as jurists of towering strength. The real reason usually is that the young lawyer, in the beginning of his practice, naturally looks up to the elderly judges of long experience with an awe which he never feels in later years toward judges near his own age, who have been his familiar associates at the bar. When he is young, a gray-bearded judge may easily seem to him the embodiment of dignity, learning, and ability; but, as the years go by, he may, of his own knowledge, quite accurately measure the actual capacity and limitations of a brother lawyer on the bench.

The case with respect to law books is much the same as it is with judges. Every young lawyer is told of the excellence of the most highly esteemed law books in use, and he also learns the traditional value of some that are no longer in daily use, or, if so, have passed through a series of new editions to which much of their present value is due. He thus often absorbs the traditional estimate of some book that he knows little about from

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practical use, and then takes his resulting ideal of that as the standard for testing all modern treatises. No matter how excellent the new book may be, it will not have over it the halo that crowns the old one.

The question whether or not the law books of the present day are inferior to those of earlier times is, however, entitled to frank and fair consideration. It was as true in former days as it is now that law books were not all of equal merit; and it is obviously unfair to select the chief legal classics of those days, for comparison with the poorest, or even the average, modern law book; yet it is almost inevitable to do this, because only the best of the old books are remembered at all, while those of inferior merit have passed into oblivion. The unusual luster of the names of Kent and Story is attributable in part to their work as law writers, but in large degree to their high judicial rank. Their great fame as judges can hardly fail to magnify, in popular estimation, the inherent excellence of their law writings. There are also other able writers of their day; yet, including them all, the list of all the exceptionally excellent law books produced during their day and thereafter, down as late as 1870,—covering a period of nearly ninety years,—is quite small in comparison with the more modern law books produced in the next fifty years, which are everywhere recognized as standard works of high reputation and unquestioned excellence. Anyone familiar with the subject can easily satisfy himself of the truth of this statement, by making careful lists of the best law books for both these periods. As we look at the famous men of any class through the mists of years, we are prone to think that there were giants in the land in those days; and we should not overlook this tendency when we come to compare the law writers of earlier and later periods.

By any fair and candid test, the accuracy and reliability of the best modern law books will certainly not suffer in comparison with the earlier works of the same kind. Of course, absolute infallibility was as impossible to achieve in the earlier days as it is now. This may be illustrated by a remarkable and almost humorous error in a textbook of one of the most revered and illustrious of all our early authors. In that work he states an entirely erroneous rule of law on an important question, and cites as authority for it a case in which there was nothing to support it except a statement in a dissenting opinion and even that was scarcely more a dictum. This mistake may, of course, have been made by some assistant, instead of by the author himself; but, in either case, the author must bear the responsibility. Yet, in spite of such a glaring error, his book still retains its high place among our standard works;

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but it may be questioned whether such a mistake, if found in a modern textbook, might not damn it beyond redemption.

There are undoubtedly some modern law books that fail to wear well with the profession, either because the authors were not competent, or did slipshod work; but it is equally true that the best legal works of to-day are made with an exhaustiveness of investigation and thoroughness in analyzing the decisions in relation to legal principles, and a lucidity and accuracy in presenting the results of the authorities, which have not been surpassed in similar legal works produced in any earlier period. It must also be remembered that the task of treating adequately any important branch of the law in these days has grown vastly greater, because of the very great number of authorities that must now be taken into account, and, at the very least, must be carefully examined in making a thorough investigation of any subject.

American Bar Association

The American Bar Association is to hold its annual meeting this year at San Francisco, on August 9th, 10th, and 11th. In the forty-four years of the association's existence, this is the first time that it has met in California. The only time it visited the Pacific coast was in 1908, when the convention was held in Seattle.

In view of the recent Limitation of Armaments Conference at Washington, and its bearing upon the interests of the United States "in the region of the Pacific," to use the apt phrase of Secretary Hughes, this convention promises to be of more than ordinary importance.

Many distinguished lawyers will be in attendance, and unusually important matters will be considered, both in addresses and debates. Secretary of State Charles Evans Hughes has been invited to deliver the annual address. The significance of this is obvious. Elihu Root, Mr. Chief Justice Taft, and many other leaders of the bar will be in attendance. Lord Shaw, one of the most distinguished law lords of Great Britain, will be the guest of the American Bar Association, representing the British Bar.

As usual, the National Conference of Commissioners on Uniform State Laws will meet during the week preceding the session of the American Bar Association.

Great enthusiasm is being manifested on the Pacific coast over the approaching convention. Not alone is San Francisco attractive as a convention city, but the surrounding country offers opportunity for many interesting and inexpensive side trips. Within 100 miles of San Francisco is a wealth of scenic and natural attraction not found anywhere else in the United States.

Enjoining Gas Rates

Injunctive relief against gas rates fixed by state statute was held properly granted in Newton v. Consolidated Gas Co. U. S. Adv. Ops. 1921–22, p. 305, when it became clear that the prescribed rate had yielded no fair return for more than a year, and that this condition would almost certainly continue for many months. Mere past successes of a public service corporation will not support a demand by the state that it continue to operate at a loss.

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Liability of Innkeeper for Interfering with Guest

AN INN has long been the symbol of rest and refreshment. "Shall I not take mine ease at mine inn?" exclaimed the redoubtable Sir John Falstaff. "He who has not been at a tavern," declared Aretino, "knows not what a paradise it is. O holy tavern! O miraculous tavern!—holy, because no carking cares are there, nor weariness, nor pain; and miraculous, because of the spits, which of themselves turn round and round!" Taverns, such as the Mermaid, frequented by Shakespeare, Jonson, Fletcher, and Herrick, have been literary shrines. Dr. Samuel Johnson, dining at an excellent inn, thus expressed his love of taverns to the faithful Boswell: "There is no private house in which people can enjoy themselves so well as at a capital tavern. Let there be ever so great plenty of good things, ever so much grandeur, ever so much elegance, ever so much desire that everybody should be easy, in the nature of things it cannot be; there must always be some degree of care and anxiety. . . . There is nothing which has yet been contrived by man, by which so much happiness is produced as by a good tavern or inn." He then repeated with great emotion, Shenstone's lines:

"Whoe'er has travel'd life's dull round,
Where'er his stages may have been,
May sigh to think he still has found
The warmest welcome at an inn."

But mine host is not always gracious and considerate, and his servants are sometimes rude and abusive. Such untoward events have led to various decisions by the courts. In the recent Massachusetts case of Frewen v. Page, 131 N. E. 475, annotated in 17 A.L.R. 134, it is held that the contract of a guest in an inn includes the right to immunity from rudeness, personal abuse, and unjustifiable interference of the innkeeper, his servants, or persons acting under his control. As more fully stated in 14 R. C. L. 506: By the implied contract between an innkeeper and his guest, the former undertakes more than merely to furnish the latter with suitable food and lodging. There is implied the further undertaking that the guest shall be treated with due consideration for

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his safety and comfort. The guest is entitled to respectful and decent treatment at the hands of the innkeeper and his servants, and this right of the guest necessarily implies an obligation on the part of the innkeeper to exercise at least reasonable care that neither he nor his servants will abuse or insult the guest, or indulge in any conduct or speech that may unnecessarily bring on him physical discomfort or distress of mind, or imperil his safety.

It has been repeatedly laid down that an innkeeper is liable if he, without sufficient cause, interferes with the peace and quiet enjoyment of the guests of the hotel, the rule being based on the implied obligation of the innkeeper to furnish his guests with such convenience and comfort as the inn affords. But if, on the other hand, an innkeeper has a sufficient reason for interfering with or removing a guest, he will not be held liable for the damages resulting therefrom.

From the very nature of the business, it is inevitable that an innkeeper must, at all reasonable times and for all proper purposes, have the right of access to and control over every part of his inn, even though separate parts thereof may be occupied by guests for hire, and he may make and enforce such reasonable rules as may be designed to prevent immorality, or any conduct offensive to other guests, or inconsistent with the recognized proprieties of life. A room in an inn is not in a legal sense the dwelling house of a guest, and the relation is not that of landlord and tenant, for, notwithstanding the guest's occupancy, it is the house of the innkeeper. While it is true that when a guest is assigned to a room for his exclusive use, it is his for all proper purposes, and at all times, until he gives it up, yet this exclusive right of use and possession is subject to such emergent and occasional entries as the innkeeper and his servants may find it necessary to make in the reasonable discharge of their duties. These entries must, however, be made with due regard to the occasion, and at such times and in such manner as are consistent with the rights of the guest. 14 R. C. L. 504.

It is generally held that an act of wrongful interference with a guest, committed by a servant of the innkeeper while engaged in his employer's business, or endeavoring to enforce a rule of the house, is within the scope of his employment, and the innkeeper is liable for his act. But an innkeeper does not owe the same duty to his guest as the common carrier owes to his passenger, with respect to the acts of servants and others on the premises, and he is not an insurer against the torts of his servants. 14 R. C. L. 507.

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Protection against Imitation of Advertising or Place of Business

THE decisions on the point uniformly hold that the appropriation of another's advertising matter or methods is not of itself unfair competition, although it may become such where it induces the public to suppose that, in dealing with the appropriator, they are dealing with or obtaining the product of the originator.

Thus, it was held in the recent Virginia case of Benjamin T. Crump Co. v. Lindsay, 107 S. E. 679, annotated in 17 A.L.R. 747, that no unfair competition was involved in the copying of pages of a competitor's catalogue containing pictures and descriptions of automobile accessories which both had a right to sell, where there was no possibility of the copier's catalogue being mistaken for that of the other, although, by so doing, the copier was enabled to avoid expense. Nor was there unfair competition in the copying by the defendant in a circular accompanying each cake of his soap, of sentences from the circular accompanying the complainant's soap, where the circulars themselves were entirely unlike in appearance and size, and the reverse side of one was blank, while that of the other contained advertisements in several foreign languages; since such copying of the language could have had no effect in misleading persons proposing to purchase complainant's product. Potter Drug & Chemical Corp. v. Pasfield Soap Co. 102 Fed. 493, affirmed in 46 C. C. A. 40, 106 Fed. 914.

One who has adopted a catch phrase as a distinctive form of advertisement, which has come to be associated with him, is entitled to be protected against any unfair appropriation of it by a competitor. Kimball v. Hall, 87 Conn. 563, L.R.A.1916E, 632, 89 Atl. 166. Similarly, one who has used in his business, and in his extensive newspaper advertisements, a device consisting of a representation of a flag, with stars studding the upper and lower borders in a very effective and striking way, is entitled to enjoin the use of the same device by a competitor in his advertisements, in a manner not only calculated to deceive, but which, in many instances, had deceived people into believing the defendant's advertisement to be the plaintiff's. Johnson v. Hitchcock (1888) 3 N. Y. Supp. 680.

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Protection Under Copyright Laws

The tendency of the courts is apparently toward a liberal construction of the copyright laws, so as to admit of the protection of advertising as well as of works intended to be multiplied and sold. The necessary relation of pictorial advertising to the "useful arts" is now thoroughly established. Whether written advertisements are likewise entitled to protection is not so clear.

Notwithstanding earlier decisions to the contrary, which it has been sought to explain away rather than to overrule, it is now settled that pictures used for advertising purposes, if possessed of the least degree of originality or artistic merit, are the subject of copyright. Thus, it is held in Campbell v. Wireback, 269 Fed. 372, 17 A.L.R. 743, that cuts produced for the purpose of a catalogue of wares for sale are the subject of copyright.

The copyrighting of an illustration merely precludes another from copying it, and not from making his own. Bleistein v. Donaldson Lithographing Co. 188 U. S. 239, 47 L. ed. 460, 23 Sup. Ct. Rep. 298.

Simulating Place of Business

It was held in United Cigar Stores Co. v. United Confectioners, 92 N. J. Eq. 449, 112 Atl. 226, accompanied by a note in 17 A.L.R. 779, to be unfair trade and competition, to restrain which an injunction would issue, where defendants, in the same line of business, dressed their store front in such close simulation and imitation of the adjoining store front of complainants, imitating particularly several striking features which were distinctive of all of complainants' stores, there and elsewhere, and which substantially constituted a trademark of the complainants, so that the public would be deceived into patronizing defendants' store, thinking they were patronizing the store of complainants. This decision is based on the principle that one has no more right to pass off his place of business as another's, than he has to pass off his own goods as those of another.

But, although one may lawfully adopt the features by which a competitor has sought to give his store or vehicle a distinctive appearance, he must, at the same time, take proper measures to guard against the public being misled thereby. This rule has been applied in cases involving the architecture of store buildings, signs, and tradenames, and the coloring and lettering of milk wagons, trucks, cabs and omnibuses.

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Keeping to the Right

THE law of the road in the United States requires travelers in vehicles, when they meet each other upon a highway, each to turn to the right if reasonably practicable, and this rule has been adopted by statute in a number of states. 13 R. C. L. 273. A contrary rule has prevailed in England, the driver of a carriage being required to keep on the left side of the road when meeting another vehicle. The English custom has been celebrated in the following lines, attributed to Henry Erskine:

"The rule of the road is a paradox quite;
In riding or driving along,
If you go to the left, you are sure to go right;
If you go to the right, you are wrong."

It seems to be well settled that the rule of the road does not apply to pedestrians, but refers only to vehicles, or to those riding or driving animals upon the highway. It is so stated in Marton v. Pickrell, 112 Wash. 117, 191 Pac. 1101, annotated in 17 A.L.R. 68, which holds that a pedestrian is not, as matter of law, in the absence of statutory requirement, bound to keep on the right side of the road in passing vehicles. The court remarks: "It is a matter of common knowledge that a pedestrian on a highway, or on a double-track line of railway, is far better able to look out for his own safety and protection by so traveling as to face all on-coming vehicles, than he would be if keeping to the same side of the roadway as vehicular traffic, and being thus at all times obliged to keep watch to the rear."

The guiding principle in these cases, as stated in 13 R. C. L. 270, is that the law or rules of the road are "not inflexible, and a strict observance should be avoided when there is a plain risk in adhering to them, and one who too rigidly adheres to such rules, when the injury might have been averted by variance therefrom, may be charged with fault. A traveler may not remain stubbornly and doggedly upon the right of the traveled part of the highway, and wantonly produce a collision which a slight change of position would have avoided, and to do so will amount to contributory negligence which will preclude a recovery for injuries thereby sustained.

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Free Textbooks for Schools

THE public school is a focal point of democracy. It has done much to promote equality and good fellowship. The policy of providing for the equal education of the youth of a community has made each child, however humble his origin, a commoner in the republic of letters and a joint heir of the culture of the ages. Competitive work in the classroom, where the child of the workman is the intellectual rival of the child of the manufacturer, teaches each to respect the other. The school is not only an outgrowth of democracy, but one of its stoutest bulwarks. Recognition of this truth may have inspired the famous declaration of Governor Berkeley of Virginia, in 1670: "I thank God there are no free schools, nor printing, and I hope we shall not have them these hundred years; for learning has brought disobedience and heresy and sects into the world, and printing has divulged them, and libels against the best government. God keep us from both!" We have come a long way since then. Now we are proud of our schools, and the sums voted annually for their support form the largest item in the tax bills of our communities. There is a growing modern tendency to urge legislation providing for free textbooks as a part of our public school equipment. It is argued that this will add to the availability and efficiency of educational opportunities.

Various questions involving the subject of free textbooks have been determined by the courts. That express constitutional authority is not necessary to enable the legislature to provide free textbooks for high schools, although the Constitution expressly confers such power with respect to elementary schools, is held in the recent California case of Macmillan Co. v. Clarke, 194 Pac. 1030, annotated in 17 A.L.R. 288. "There is nothing in the nature of the provision of textbooks for the use of high school pupils," remarks the court, "to require different or more specific constitutional authority than has been found sufficient for the building and furnishing schoolhouses, employing teachers, supplying crayons, pens, pencils, and stationery, maps, charts, and other high school equipment."

Nor does a constitutional prohibition of gifts of public money or things of value to individuals prevent the provision of free books for high school pupils. In the case last cited it is said: "It would appear that this objection, if perti-

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nent, applies to every phase of a free school system as well as to the free use of textbooks. All the furnishing, equipment, and appliances of our public schools—the very tuition itself—are a contribution of something of value to the school patrons. To argue that some of these agencies, and not all, are expressly authorized for the benefit of the school population by the general constitutional provisions for the maintenance of a free school system, or that the scope of school service is limited to rudimentary education in the 'three R's' and such equipment as was deemed sufficient when our Constitution was adopted, is to place our public schools under the blight of the 'dead hand,' with no chance for expansion and development in line with our growing culture and civilization. Such a construction would be a serious limitation upon the numerous high school centers throughout the state, . . . and the normal and technical schools, with their costly and elaborate equipment of libraries, chemical, electrical, mechanical laboratories and appliances provided for the use of pupils. The true explanation of the apparent conflict of authority would seem to be that the free school system, with all its equipment, is not primarily a service to the individual pupils, but to the community, just as fire and police protection, public libraries, hospitals, playgrounds, and the numerous other public service utilities which are provided by taxation, and minister to individual needs, are for the benefit of the general public." To justify school or public authorities in furnishing textbooks free or at reduced rates to the pupils, authority must be found in constitutional or statutory provision. School townships and boards of education of school districts, it has been said, are corporations with limited statutory powers, and all who deal with them are charged with notice of the scope of their authority; and they can exercise no power not expressly conferred by statute, or arising from necessary implication. In Board of Education v. Detroit, 80 Mich. 548, 45 N. W. 585, the court said: "It has never been claimed, so far as we are aware, that school boards had the power to furnish free textbooks, except by virtue of special legislation."

A board of education was held in Harris v. Kill, 108 Ill. App. 305, to have no statutory power to purchase and distribute textbooks for the free use of all the pupils of certain grades, without reference to whether the parents of the children were financially able to buy books.

The power of school trustees to purchase readers, under a statutory power to provide necessary articles and educational appliances, was denied in Honey Creek School Twp. v. Barnes, 119 Ind. 213, 21 N. E. 747. In distinguishing this case from an earlier deci-

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sion that a trustee had power to purchase a number of dictionaries for the school the court remarked: "Blackboards, charts, maps, tellurions, and dictionaries are a class of articles, apparatus, and books which are not required for each individual scholar, but one of each would be sufficient, in most instances, for the whole school, and could be used by the teacher in giving instructions to the pupils. No person being required to furnish such common property for the benefit of the whole school, they can only be supplied by the trustees. The authority, certainly, cannot be extended to the right of purchasing general textbooks for the use of each of the individual pupils." It was further determined in this case that the fact that textbooks purchased without authority are received by the school authorities, and used in the schools under their direction, creates no liability on the part of the school township to pay for them.

The purchase of "reading circle books" by a township trustee, for use of the schools of the township, was held unauthorized in First Nat. Bank v. Adams School Twp. 17 Ind. App. 375, 46 N. E. 832, under a statute giving the trustees "charge of the educational affairs" of the township, and empowering them to provide suitable furniture and apparatus, and other articles and educational appliances necessary for the thorough organization and efficient management of the schools. Nor, as determined in Atty. Gen. ex rel. Sheehan v. Board of Education (Kuhn ex rel. Sheehan v. Board of Education) 175 Mich. 438, 141 N. W. 574, 45 L.R.A. (N.S.) 972, has a board of education power to purchase textbooks and sell them to the pupils at wholesale prices, under statutory authority to sell real and personal property as the interests of the school require.

Shorthand Wills

Last February a will written in shorthand was admitted to probate—the second one of its kind. The judge ordered a certified transcript for use. The admission of such wills may prove a great boon to solicitors called on to make deathbed wills; we assume that it need not be a holograph shorthand will; if this view is correct a solicitor could take his shorthand clerk, get him to read the will over to the testator, and then he and the clerk could get the testator to execute it at once. In the case of a testator in extremis this might save an undesirable intestacy.—Law Notes (Eng.)

Stock Issue to Control Company

That the directors of a corporation are not entitled to use their power of issuing shares merely for the purpose of maintaining the control of themselves and their friends over the affairs of the company is held in the English case of Piercy v. S. Mills & Co. 10 B. R. C. 11. This case is accompanied by an annotation upon the question of the legality of the issue or sale of stock intended to enable directors to gain or retain control of the company.

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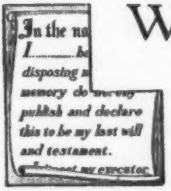
Validity of Will Executed on Joining Secret Order


In the na
I, ____ be
disposing m
memory do
publish and declare
this to be my last will
and testament.
I appoint my executor

WHETHER a will executed as part of the ceremony of initiation into a secret order can be established as a valid will is held in the Washington case of Re Watkins, 198 Pac. 721, 17 A.L.R. 372, to depend upon the intent with which it was executed.

The will in question was written by the candidate in compliance with the following instructions: "Write, now, in good faith, your last will and testament, precisely as if you were about immediately to be engaged in battle and expected to fall in the action."

"It was testified by members of the order," states the opinion, "that the making of a will was a part of the ceremony of the particular degree, required of all candidates who had not theretofore made a will. The members of the order testifying did not, however, altogether agree as to the purpose of the requirement. One testified that it was ceremonial only, a part of the ritualistic work, and not intended as a testamentary disposition of property. Two others testified to a contrary view; the substance of their testimony being that all members of the order who had taken this degree were expected to die testate, and that, while the will executed on the particular occasion, like all other wills, was subject to modification by subsequent codicils, or revocation by subsequently executed wills, it is intended and regarded as testamentary."

"There would seem to be no legal objection," continues the court, "to regarding a will so executed as a valid will. The time, place, or circumstances of the execution of an instrument in form testamentary are material only as they bear upon the question of intent. It is well settled, of course, that an instrument offered for probate as a will, however formal may have been its execution, will not be admitted to probate as such unless it was executed by the testator with testamentary intent. If it is executed under compulsion, undue influence, as a part of a ceremonial, for the purpose of deception, or for the purpose of perpetrating a jest, it is not a will; but the fact that it was executed at a time when the testator was taking a degree in a secret order is not alone sufficient to reject it as a valid testamentary disposition of property. A valid will may be made under these cir-

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cumstances as well as under any other. The question being one of intent, if it fairly appears that the testator intended it as his will, there is no valid legal reason, because of the place of its execution, why the courts should not give it effect as such."

The cognate question as to when a will will be deemed contingent is treated at length in a note in 11 A.L.R. 846. Upon consideration of the cases on the subject, it is there stated, generally, that whether a will referring to the possibility of the death of the testator under certain circumstances is to be deemed contingent on his death under those circumstances depends on whether the peril in question is referred to as the occasion or inducement for making the will, or whether it is made a condition on the happening of which the will is to become operative. If the possibility of death in the manner referred to is the occasion for making the will, it is held that the will is not contingent. But, if death under the circumstances mentioned is a condition on the happening of which the will is to become operative, the will is contingent on the event, and is void unless the contingency is fulfilled.

A Paradox. "Sentenced for Keeping Still." This headline refers to a woman! In Vermont. It seems that she did not keep the still still enough, and the dry agent, hearing the kettles rattling, raided her.

—Boston Transcript.

The Salesman

The salesman is a necessary factor in every successful business. Especially is this true of the salesman who goes out from his headquarters to call on the public.

You may not think so at once, but if you stop to consider the salesman's place in our domestic economy, it may give you another thought.

In large measure, the prosperity of the country depends upon the men who sell goods.

Many a factory or business house would come to a standstill if it did not send representatives into the field to tell the public of the merits of its merchandise.

The salesman is the pioneer in business, the missionary of trade, the advance agent of prosperity.

When he calls on you, give him a minute or two, that he may tell his story. What he has to say may prove to be of great value. You have all to gain and nothing to lose by listening to him for a moment.

The salesman's life is not an easy one. He is seeking to make his living. Wife and children are dependent upon him. He is engaged in an honest and honorable calling.

Don't give him the cold shoulder. He is the door-opener for trade. He can help you. Let him show you how.

If he succeeds, you profit. If he fails, you lose nothing.

Many a man who began with selling has become the master of a big business. Selling taught him the gift of merchandising successfully. Welcome him who may teach you things you ought to know.

It is a free education for you. He pays for it, not you.

—*Leslie's*

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THE TEST OF USE: Lawyers

NAMES AND ADDRESSES

Both Sides of the Question

"Recently we had a question arise in a very important law suit on which our Supreme Court had never passed. But, upon going to A.L.R., we found all the law on both sides of the question."

Cited Notes Successfully

"Success in one case attended our citation of your notes on 'Increase in cost of living as affecting damages for personal injuries or death.' 3 A.L.R. 610 and 10 A.L.R. 179.

"In a second review of the case of Fowler vs. City of Cleveland, 9 A.L.R. 143, the Supreme Court of Ohio followed its former ruling, and your notes to the first case were referred to in briefs and argument.

"In another case before Judge Westenhaver of the U. S. District Court, N. D. of Ohio, E. Div., he ruled against us on the right of a soldier to recover damages for injuries received on a railroad under governmental control, and cited 13 A.L.R. 1020."

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sulting R. C. L. and following its office. We find that by first consulting R. C. L. and following its leads to Ann. Cas., L.R.A. and A.L.R. we save fifty per cent of our time in briefing. Seldom, if ever, do we fail to find a case 'on all fours' with our proposition. This without leaving our office. So indispensable is this system of annotated case law that we have but recently added the double volume edition of American Decisions and Reports."

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"Yesterday we had occasion to consult the recent note upon the question of an absolute deed with a contract of defeasance operating as a mortgage. The A.L.R. note covered every point thoroughly and logically."

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"We are glad also to note that the Digests to the cases and texts are complete so that one can easily ascertain if the volume contains a case in point."

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Recent Important Cases

Adjoining owners — *right to lateral support — collapse of retaining wall.* The appellate division of the Ontario supreme court has held in Foster v. Brown, 10 B. R. C. —, that an owner of land is liable for damage occasioned by the subsidence of the land of an adjoining owner, which results because a retaining wall built by defendant's predecessor in title, after making an excavation extending to the boundary line, has been permitted to get out of repair. The question of liability under such circumstances, as appears from the accompanying annotation, is one the law on which is not well settled.

Animals — *liability of owner for spread of disease.* That the keeping of infected swine on one's land does not render him liable for the communication of the disease to swine of an adjoining owner, in the absence of negligence in the manner of keeping them, is held by the supreme court of New South Wales in Ruhan v. Water Conservation & Irrig. Commission, 10 B. R. C. —, which is accompanied by a note on the liability of the owner of animals for the spread of a disease from which they are suffering.

Arson — *burning own property.* A necessary element of the crime of arson under § 12,433 of the Ohio General Code, is that the building burned be "the property of another person," and a failure of the trial court so to instruct the jury is held to be prejudicial error in the Ohio case of Haas v. State, 132 N. E. 158, annotated in 17 A.L.R. 1164, on the ownership of property as affecting criminal liability for the burning thereof.

Assignment — *conveyance of expectancy — effect of warranty.* That an heir apparent cannot convey by warranty deed his right of inheritance which can be affirmed after the death of his ancestor is held in Hunt v. Smith, 191 Ky. 443, 230 S. W. 936, which is annotated in 17 A.L.R. 588, on the validity and effect of a transfer of expectancy by a prospective heir.

Attorneys — *liability for allowing claim to become barred.* That an attorney instructed by a client to make a claim against a municipal corporation, an action on which will be barred by statute unless brought within six months, is negligent in omitting to warn his client, while an offer of settlement is under consideration, of the necessity of prompt action, in consequence of which the claim becomes barred, is held by an English court in Fletcher v. Jubb, 10 B. R. C. —. The case is accompanied by an annotation collecting the decisions upon the question of the liability of an attorney for allowing a claim to become barred by limitation.

Bank — *liability for loss of bond taken for safe-keeping.* A bank which undertakes to care for a bond of large value belonging to a customer, which is negotiable by delivery, and is lost by the burglarizing of the bank's vault, may be found to be negligent, it is held in the Tennessee case of Pennington v. Farmers & M. Bank, 231 S. W. 545, annotated in 17 A.L.R. 1213, in leaving it in the vault, which was old and built of brick without steel lining, where there was no police protection in the town and no lights or watchman in the bank, and it had a burglar-proof safe in the vault where valuables of the bank's officers and their relatives were kept, and which were not disturbed by the burglars.

Bills and notes — *stifling charge of crime — recovering payment.* One

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giving notes to prevent arrest of his relative on a charge of criminal misappropriation of funds is held not entitled, in Union Exch. Nat. Bank v. Joseph, 231 N. Y. 250, 131 N. E. 905, to recover money paid thereon, since, being a wrongdoer in stifling a charge of crime, the law will leave him where it finds him, although the relative was innocent of the charge, and prosecution had not been begun, if the charge was not made in bad faith.

Innocence of the person threatened as affecting the rights or remedies in respect of contracts made, or money paid, to prevent or suppress a criminal prosecution, is treated in the note appended to this case, in 17 A.L.R. 323.

Broker — *absence of writing — right to recover quantum meruit.* The common-law right to recover quantum meruit for services rendered in procuring a purchaser for real estate, the benefits of which are accepted and retained by the property owner, is held in the Wisconsin case of Seifert v. Dirk, 184 N. W. 698, annotated in 17 A.L.R. 885, not to be destroyed by a statute making void every contract to pay a commission for selling real estate unless it is in writing.

Cancelation — *of usurious contract — equity.* Equity, it is held in the Rhode Island case of Moncrief v. Palmer, 114 Atl. 181, will not cancel a usurious contract unless the borrower offers to pay the amount due with legal interest, although the statute makes it void and authorizes the borrower to recover any money paid on it.

The subject of payment or offer to pay the principal and legal interest, as a condition of relief in equity against a usurious contract, is treated in the note appended to this case, in 17 A.L.R. 119.

Constitutional law — *special legislation — divorce to wife not allowed husband.* A statute permitting a wife to secure a divorce when she shall have lived separate and apart from her husband for a specified time, without allowing the husband to secure a divorce or separation except for fault of the wife, is held not to be unconstitutional as denying due process or the equal protection of the laws, in the Alabama case of Barrington v. Barrington, 89 So. 512, which is accompanied, in 17 A.L.R. 789, by a note on the constitutionality of a discrimination as between husband and wife as to grounds of divorce.

Contract — *modification by parol.* That a provision in a written contract for sale of standing timber, giving a right of removal during a coming winter provided grantor still owned the land, cannot be modified by parol so as to provide for removal at that time regardless of who then owned the property, is held in the Wisconsin case of Schaap v. Wolf, 181 N. W. 214, which is accompanied, in 17 A.L.R. 7, by a note on the effect of the Statute of Frauds upon the right to modify, by subsequent parol agreement, a written contract required by the statute to be in writing.

Contract — *moral obligation.* Contracts entered into or promises made on the basis of relations of friendship and good will, unsupported by pecuniary or material benefit, are held in Rask v. Norman, 141 Minn. 198, 169 N. W. 704, to create, at most, bare moral obligations, binding only on the conscience, and a breach thereof presents no cause for redress by the courts.

The note appended to this case, in 17 A.L.R. 1296, treats of a moral obligation as a consideration for an executory promise.

Corporation — *liability on promoter's contract.* That a promoter's contract, as such, cannot, by the incorporation of the contemplated company, ipso facto become the contract of the corporation, is held in Kirkup v. Anaconda Amusement Co. 59 Mont. 469, 197 Pac. 1005, which is accompanied in 17 A.L.R. 441, by a note on the liability of a corporation on the contracts of promoters.

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Damages — *for condemnation of fee of highway.* That nominal damages only can be awarded for condemnation for highway purposes of the fee of a strip the use of which has been dedicated to the public for such purpose, is held in the Missouri case of St. Louis v. Clegg, 233 S. W. 1, which is annotated in 17 A.L.R. 1242.

Deed — *grant of minerals — oil and gas.* A grant, without qualifying or limiting words, of the minerals underlying certain real estate is held to include oil and gas, in Hudson v. McGuire, 188 Ky. 712, 223 S. W. 1101, which is followed, in 17 A.L.R. 148, by a note on what are "minerals" within a deed, lease, or license.

Definition — *"similar."* The word "similar," it is held in the New Jersey case of Fletcher v. Interstate Chemical Co. 112 Atl. 887, annotated in 17 A.L.R. 92, is generally interpreted to mean that one thing has a resemblance in many respects, nearly corresponds, is somewhat like, or has a general likeness, to some other thing, and not to mean identical in form and substance, although in some cases "similar" may mean "identical" or "exactly like."

Electricity — *negligent placing of defective wire — liability.* A municipal corporation which places a defectively insulated electric wire in such close proximity to a latticed pillar erected in a highway to support an elevated railroad as to be dangerous to children, who, following their instincts of play, may climb the pillar and come in contact with the wire, may, it is held in Stedwell v. Chicago, 297 Ill. 486, 130 N. E. 729, be liable for injury inflicted by their so doing.

The duty to guard against danger to children by electric wires is discussed in the note which follows this case, in 17 A.L.R. 829.

Embezzlement — *liability of partner for taking partnership funds.* A partner, it is held in the Arizona case of State v. Sanders, 201 Pac. 93, anno-

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tated in 17 A.L.R. 980, cannot be convicted of embezzling partnership funds under a statute which provides such conviction for certain specified persons, not including a partner, and "any person otherwise intrusted with or having in his control property for the use of any other person," who appropriates it to his own use, or secretes it for that purpose.

Evidence — *death certificate.* The death certificate issued at the time of death of one alleged to have been killed by another's negligence is held to be admissible in evidence in an action to recover damages for the death, in the Utah case of Bozicevich v. Kenilworth Mercantile Co. 199 Pac. 406, which is accompanied in 17 A.L.R. 346, by a note on death certificate as evidence.

Evidence — *sufficiency — fraudulent conveyance.* In a suit by subsequent creditors to set aside a deed made by their debtor, without consideration deemed valuable in law and with intent to hinder, delay, and defraud his creditors, brought within five years from the date of the deed, it suffices to prove fraudulent intent on the part of the grantor alone. Proof of knowledge thereof by the grantee is held not required in Graham Grocery Co. v. Chase, 75 W. Va. 775, 84 S. E. 785, annotated in 17 A.L.R. 723.

Evidence — *value of property — assessment rolls.* Assessment rolls are held to be no evidence of the market value of the property assessed in American State Bank v. Butts, 111 Wash. 612, 191 Pac. 754, annotated in 17 A.L.R. 168.

False pretenses — *obtaining money on orders not to be delivered.* That one cannot be convicted for obtaining money by false pretenses, by obtaining money on orders for goods which he does not intend to deliver, is held in the Oklahoma case of Helsey v. State, 193 Pac. 50, annotated in 17 A.L.R. 197.

Food — *coffee grounds as — mingling with poison.* Coffee grounds from which an infusion of coffee is to be made for use as a beverage are held, in the Texas case of Harkey v. State, 234 S. W. 221, to be within the operation of a statute providing punishment for anyone who shall mingle any noxious substance with any drink, food, or medicine, with intent to kill or injure any other person.

The annotation which follows this case, in 17 A.L.R. 1276, treats of what is "food" within the meaning of the statute.

Guardian and ward — *guardianship for idle and intemperate persons.* That a guardian may be appointed for the owner of a farm who fails to care for the property, and is idle and intemperate, where the statute authorizes the appointment of guardians for spendthrifts, is held in Re Reed, 173 Wis. 628, 182 N. W. 329, which is followed, in 17 A.L.R. 1063, by a note on the mental condition which will justify the appointment of a guardian or committee of the estate, as for an incompetent or spendthrift.

Highway — *liability for obstructing sidewalk.* Abutting owners who unnecessarily obstruct a sidewalk so as to compel footmen to mingle with traffic in the roadway, and the city which permits them to do so, are held liable for injuries which thereby re-

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sult to such persons, in the Missouri case of Shafir v. Sieben, 233 S. W. 419, which is annotated in 17 A.L.R. 637.

Homicide — *recommendation to mercy — discretion.* Section 12,400 of the Ohio General Code, giving the jury discretion to recommend mercy in cases of conviction of first-degree murder, is held, in the Ohio case of Howell v. State, 131 N. E. 706, to confer an absolute discretion which should not be influenced by the court. However, this discretion should be exercised in view of all the facts and circumstances disclosed by the evidence.

The subject of recommendation of mercy in a criminal case is treated in the note which accompanies this case, in 17 A.L.R. 1108.

Injunction — *in industrial dispute — picketing — Clayton Act.* Picketing in groups of from four to twelve near an employer's place of business during a strike, accompanied by attempts at persuasion, or communication with those entering or leaving the plant, with the inevitable result of intimidation of employees and would-be employees, and of obstruction of, and interference with, the business of the employer, is held, in American Steel Foundries v. Tri-City Central Trades Council, U. S. Adv. Ops. 1921–22, p. 103, to be unlawful, and may be enjoined, notwithstanding the provisions of the Clayton Act of October 15, 1914, § 20, which forbid an injunction against recommending, advising, or persuading others by peaceful means to cease employment and labor, or against attending at any place where such person or persons may lawfully be for the purpose of peacefully obtaining or communicating information, or peacefully persuading any person to work or abstain from working, or against peaceably assembling in a lawful manner and for lawful purposes.

Insurance — *accident — pursuit of criminal — voluntary exposure.* The fact that the insured was killed while voluntarily aiding a peace officer in the fresh pursuit of persons reasonably suspected of having committed a crime, and seeking to escape, is held, in the Nebraska case of Sackett v. Masonic Protective Asso. 183 N. W. 101, annotated in 17 A.L.R. 188, not to defeat recovery, as a matter of law, in an action upon a policy of accident insurance, under a provision thereof that the insurer shall not be liable in case of "voluntary exposure to unnecessary danger;" but the question whether, in performing his duty as a citizen, the insured incurred needless risk, is for the jury.

Insurance — *accident — sunstroke as bodily injury.* Sunstroke is held to be within the provision of a policy insuring against bodily injuries effected, exclusively and independently of all other causes, through accidental means, in the Utah case of Richards v. Standard Acci. Ins. Co. 200 Pac. 1017, annotated in 17 A.L.R. 1183.

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Insurance — *change of by-law — presumption of death.* That a by-law of a mutual benefit society may be made applicable to existing contracts, where the member has agreed to be bound by by-laws subsequently enacted, which changes the rule of presumption of death, in case of disappearance, from seven years to the life expectancy of the member at time of disappearance, is held in Steen v. Modern Woodmen of America, 296 Ill. 104, 129 N. E. 546, which is accompanied in 17 A.L.R. 406, by a note on the validity of a by-law of a mutual benefit association preventing recovery upon presumption of death from seven years' absence.

Insurance — *effect of receivership.* Where a fire insurance policy provides that if any change takes place "in the interest, title, or possession of the subject of insurance (except change of occupants without increase of hazard), whether by legal process or judgment, or by the voluntary act of the insured, or otherwise," the policy shall be void, the judicial appointment of a receiver to administer the property, who takes actual possession of it, is held not to constitute a change of title or possession within the meaning of the forfeiture clause, in Bowling v. Continental Ins. Co. 86 W. Va. 164, 103 S. E. 285, annotated in 17 A.L.R. 376, on appointment of receiver, bankruptcy or insolvency proceedings, or assignment for benefit of creditors as change in interest, title, or possession, within fire policy.

Insurance — *insurable interest — fiancée.* One engaged in good faith to marry a man is held to have such an interest in his life that she may be made the beneficiary in a benefit certificate taken by him upon his life, in Modern Brotherhood of America v. Harden, 191 Ky. 331, 230 S. W. 307, annotated in 17 A.L.R. 576, on insurable interest of fiancé or fiancée.

Landlord and tenant — *assignment of lease — taking partner.*

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R. R. LAW OFFICES BURN

Photo, Courtesy Yawman & Erbe Mfg. Co., Rochester, N. Y.
Office Equipment and Supplies.

Fire destroyed the offices of the C. B. & Q. R. R. on March 15th, 1922, and included in the loss was the library of the Railroad's Law Department.

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S'D

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Ruling Case Law in an emergency as in every-day use stands up to the test.

Taking a partner into a business is held, in the Michigan case of Miller v. Pond, 183 N. W. 24, not to be a violation of a covenant against assignment of the lease of the property where the business is conducted, if the lessees retain their interest in the business and continue active in its management.

A note on taking a partner, or assigning to a cotenant, as a breach of a provision in a lease against assignment or subletting, accompanies this case, in 17 A.L.R. 179.

Landlord and tenant — *corporation tenant — effect of dissolution.* The dissolution of a corporation holding a leasehold, pending the term, is held not to terminate the lease, in the Massachusetts case of Cummington Realty Associates v. Whitten, 132 N. E. 53, annotated in 17 A.L.R. 527.

Master and servant — *independent contractor — salesman on commission.* A salesman employed on a commission basis, who owns and operates an automobile to assist him in seeking his trade, and whose movements are in no way controlled by his employer, is held, in the Alabama case of Aldrich v. Tyler Grocery Co. 89 So. 289, annotated in 17 A.L.R. 617, with respect to the operation of the car, to be an independent contractor, so that his employer is not answerable for injuries caused by his negligent operation of the car.

Monopoly — *conspiracy in restraint of trade — industrial dispute — picketing — secondary boycott.* Concerted action by striking employees and others to injure the employer's business by picketing, displaying banners, advertising the strike, denouncing the employer as unfair to union labor, appealing to customers to withdraw their patronage, and circulating handbills containing abusive and libelous charges against employers, employees, and patrons, and intimations of injury to future patrons, is held in Truax v. Corrigan, U. S. Adv. Ops. 1921–22, p. 132, to amount to an unlawful conspiracy in restraint of trade.

Municipal corporation — *exclusion of hospitals from limits.* The police power of municipalities is held, in the California case of San Diego Tuberculosis Asso. v. East San Diego, 200 Pac. 393, 17 A.L.R. 513, not to extend to prohibiting as a nuisance the operation of any hospital within its limits for the treatment of contagious and infectious diseases, since such prohibition would be unreasonable.

A note on the validity and effect of a statute or ordinance relating to the location of a hospital, sanitarium, or the like, may be found in 17 A.L.R. 523.

Negligence — *article likely to cause injury to property.* A manufacturer of an article not inherently dangerous is held, in the Massachusetts case of Windram Mfg. Co. v. Boston Blacking Co. 131 N. E. 454, to owe no duty to persons with whom he has no contractual relations because the article is likely to cause loss to property if it is carelessly prepared.

This case is annotated, in 17 A.L.R. 669, on the liability of a manufacturer or packer of a defective article, for injury to the person or property of an ultimate consumer who purchased from a middleman.

New trial — *disregarding direction to acquit.* Under Idaho Comp. Stat. § 8963, if the court deems the evidence insufficient to warrant a conviction, it should advise the jury to acquit; if the jury disregards such instruction, it is held, in the Idaho case of State v. Sullivan, 199 Pac. 647, that upon motion for a new trial the verdict should be set aside on the ground that it is not sustained by the evidence.

The power and duty of the trial court to direct or advise acquittal in a criminal case, for insufficiency of evidence, is discussed in the note which follows this case, in 17 A.L.R. 902.

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Ruling Case Law says: "It is held, in many jurisdictions, that if there has been a breach of covenant on the part of the vendor, the purchaser may set off or recoup the damages to which he is entitled when sued at law for the purchase money." *Further discussion of the matter follows, post card inside front cover will bring it to you. Send to-day.*

What is the measure of damages in action by the purchaser to recover for a breach by the vendor? *Sample topic VENDOR AND PURCHASER will answer, send for it on post card inside front cover.*

Proximate cause — *possession of hypodermic needle without license — septic poisoning.* The possession of a hypodermic needle without a physician's license, which by statute is a misdemeanor, is held, in Townsend v. Commercial Travelers' Mut. Acci. Asso. 231 N. Y. 148, 131 N. E. 871, not to be the proximate cause of the possessor's death by septic poisoning, due to his attempt to use it for sleeplessness.

The question as to when a violation of law will be deemed the proximate cause of death or injury, so as to preclude recovery under a policy of life or accident insurance, is discussed in the note which follows this case, in 17 A.L.R. 1001.

Tax — *effect of religious observance.* The fact that members of a secret fraternal society are required to believe in the existence of, and accountability to, a Supreme Being, and that in their meetings and ceremonies prayers are said and the precepts of morality and duty to others are taught, is held, in the Nebraska case of Scottish Rite Bldg. Co. v. Lancaster County, 182 N. W. 574, not to characterize such society as a religious organization, or exempt its property from taxation on the ground that it is used for religious purposes.

This decision is accompanied in 17 A.L.R. 1020, by a note on construction of an exemption of a religious body or society from taxation or special assessment.

Tax — *increase of municipal expenses — emergency.* The fact that the expenses of the city government have increased so that they cannot be met by the imposition of taxes within the limit prescribed by the city charter is held, in the California case of Burr v. San Francisco, 199 Pac. 1034, not to create a great necessity or emergency within the meaning of a provision in the charter authorizing the city to exceed that limit in case of such necessity or emergency.

The note appended to this case, in 17 A.L.R. 581, deals with the question as to what is an emergency within an exception to a limitation of a tax levy or municipal indebtedness.

Trial — *question for jury — negligence of telegraph company.* Whether or not it is negligence not to attempt to notify the sender of a telegram of inability to deliver the message after it reached its destination, because the sendee cannot be found, is held to be a question for the jury, in the Alabama case of Western U. Teleg. Co. v. Barbour, 89 So. 299, which is followed, in 17 A.L.R. 103, by a note on the duty of a telegraph company to notify the sender of a message in case of its inability to transmit or deliver it promptly.

Is a distinction usually made as regards the general damages recoverable between cases where the vendor acts in good faith in entering into the contract and cases where good faith is wanting? *Sample topic VENDOR AND PURCHASER from R. C. L. discusses this. Send for it on post card inside front cover.*

R. C. L. covers the main titles of the law from Abandonment to Workmen's Compensation Acts. *Post card inside front cover will bring you a list of them.*

The Test of Use — See page 240

Trial — *right of accused to address jury.* There is no constitutional provision conferring upon the accused the right to make the closing argument to the jury in his own behalf. He is guaranteed the right of having the assistance of counsel for his defense, and counsel cannot be imposed upon him against his will, but if he elects to be represented by counsel who conduct the defense until the time comes to make the argument to the jury, it is held in the Minnesota case of State v. Townley, 182 N. W. 773, that he cannot ostensibly discharge them and then insist on making the closing argument himself, especially where he did not take the stand as a witness. It is within the discretion of the trial court to permit him to do so.

The right of a defendant in a criminal case to conduct his defense in person is discussed in the note appended to this case, in 17 A.L.R. 253.

Unfair trade — *agreement to use distributing devices for only one brand of gasolene.* An exaction by producers of gasolene, of an agreement from retailers to whom they rent for nominal sums distributing devices bearing their trademarks, that they will use such devices only for the product of the producers, is held not to be unfair trade at common law or under the Clayton Act, although it may tend in the future to develop into a monopoly, in Standard Oil Co. v. Federal Trade Commission (C. C. A.) 273 Fed. 478, 17 A.L.R. 389.

Vendor and purchaser — *parol contract — recovery of down payment and value of improvements.* One entering under a parol contract to purchase real estate, paying the purchase price, and making improvements on the faith of the promise to convey, is held entitled, in the North Carolina case of Carter v. Carter, 108 S. E. 765, to recover the purchase money and the value of the improvements to the extent that they have enhanced the value of the land, upon repudiation by the vendor of his contract.

A note on the right of a vendee who enters under a parol contract to recover for improvements, where the vendor refuses to convey, accompanies this decision in 17 A.L.R. 945.

Vendor and purchaser — *right to anticipate payments.* Under a contract to purchase real estate, with a certain down payment and a specified sum annually thereafter, with interest, and to receive a deed when one half the purchase price is paid, giving a mortgage for the residue, the purchaser, it is held in the Vermont case of Peryer v. Pennock, 115 Atl. 105, cannot make payments oftener or in larger amounts than are called for by the contract.

The right of a purchaser under a land contract to anticipate the time of payment fixed by the contract is considered in the note appended to this case, in 17 A.L.R. 863.

Wills — *bequest secured by fraud — validity.* A bequest in favor of a man who, although married, induces testatrix to enter into a marriage with him, believing him to be single, and who is deceived as to the true state until her death, is held to be void in the California case of Re Carson, 194 Pac. 5, which is accompanied, in 17 A.L.R. 239, by a note on fraud or mistake as to relationship or status of legatee or devisee as affecting a will.

Workmen's compensation — *effect of increased earning on right to compensation.* That an employee, injured so as to prevent his following the particular employment in which he was engaged at the time of the injury, is able to earn greater compensation in other employment, does not prevent his receiving compensation for diminished earning power in the employment which he followed when injured, is held in Woodcock v. Dodge Bros. 213 Mich. 233, 181 N. W. 976, annotated in 17 A.L.R. 203.

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A.L.R. Annotations

The following subjects, in addition to those mentioned under Recent Important Cases, will be found exhaustively Annotated in 17 A.L.R.

Attachment — Constitutionality of statute prescribing conditions of right of defendant in foreign attachment to appear and defend. 17 A.L.R. 884.

Bailments — Liability of bailee for loss of, or injury to, goods kept at a place other than that originally intended. 17 A.L.R. 979.

Banks — Right of owner of check which the drawee bank held for him at the time it closed its doors, to a preference. 17 A.L.R. 196.

Banks — Right of previous holder of check paid by bank to take advantage of depositor's failure to examine vouchers in order to discover forgeries. 17 A.L.R. 956.

Brokers — Duty of factor, broker, or commission merchant with respect to care and protection of goods intrusted to him. 17 A.L.R. 538.

Contracts — Contracts requiring vendor or mortgagee to look to property alone for payment. 17 A.L.R. 714.

Corporation — Validity and effect of provisions in will to control voting power of corporate stock. 17 A.L.R. 238.

Divorce — Necessity of appointment of guardian ad litem for minor who is a party in an action for divorce or annulment of marriage. 17 A.L.R. 900.

Eminent domain — Building restriction as property right for taking of which compensation must be made. 17 A.L.R. 554.

Eminent domain — Right to set off benefits to part of tract which is not taken, but is subject to assessment for improvement, against damages for taking part of tract for public improvement. 17 A.L.R. 64.

Estoppel — Estoppel of maker of nonnegotiable paper to set up against transferee defense good against payee. 17 A.L.R. 862.

Evidence — Effect of purported subscribing witness's denial or forgetfulness of signature by mark. 17 A.L.R. 1267.

Fixtures — Storage tank or other apparatus of gasolene station as fixtures. 17 A.L.R. 1221.

Husband and wife — Misconduct of wife as affecting criminal charge of abandonment against husband. 17 A.L.R. 999.

Insurance — Notice to insured of amount of dividends apportionable to policy, as condition of forfeiture for nonpayment of premium. 17 A.L.R. 1231.

Insurance — Statutory provisions relating to the amount or basis of computation upon settlement of life insurance policies. 17 A.L.R. 960.

Irrigation — Irrigation district as municipality within the tax laws. 17 A.L.R. 81.

Judicial sales — Effect of destruction of, or damage to, property after judicial or execution sale on rights and liability of successful bidder. 17 A.L.R. 970.

Jury — Right to jury trial in case of seizure of property alleged to be illegally used. 17 A.L.R. 568.

Life tenants — Duty of life tenant or life beneficiary to pay taxes. 17 A.L.R. 1384.

Master and servant — Wrongful discharge of servant—doctrine of "constructive service." 17 A.L.R. 629.

Public officers — Removal of public officer for misconduct during previous term. 17 A.L.R. 279.

Remainder — Effect of premature termination of precedent estate to accelerate a contingent remainder. 17 A.L.R. 314.

Sale — What amounts to a conditional sale. 17 A.L.R. 1421.

Schools — Right of teacher to compensation while school is closed. 17 A.L.R. 1224.

Taxes — Situs for taxation of membership in exchange or board of trade. 17 A.L.R. 89.

Treaties — Relation of treaty to state and Federal law. 17 A.L.R. 635.

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New Book Announcements

Abbott's Civil Jury Trials (Fourth Edition). Completely revised by W. C. Wernuth of the Chicago Bar. (The Lawyers Co-operative Publishing Co., Rochester, N. Y.) The volume, issued in flexible binding, will be ready for delivery June 1st. Price $10.00 delivered.

Abbott's Proof of Facts (Fourth Edition). Completely revised by Allen J. Carter of the Chicago Bar. (The Lawyers Co-operative Publishing Co., Rochester, N. Y.) The work, in flexible binding, will be ready for delivery July 1st. Price $10.00 delivered.

The third edition of these popular treatises was issued in 1912. New editions have been rendered necessary by the intervening lapse of time.

Donnelly on Public Contracts. (Little, Brown & Co., Boston.)

This work will be of particular interest to city attorneys. It will be ready for shipment about the middle of June. Price $7.50 delivered.

Law of Real Estate Agency (Second Edition). By William S. Walker. (The W. H. Anderson Co., Cincinnati, Ohio.)

The work is complete in one volume, and has been announced for delivery about May 15th. Price $10.00 delivered.

George Bryan and The Constitution of Pennsylvania, 1731–1791. By Burton Alva Konkle. (William J. Campbell, 1731 Chestnut St., Philadelphia.) $4.00. By mail or express $4.20.

George Bryan, 1731–1791, was a predecessor of Franklin as President of Pennsylvania, and was the greatest defender of Lloyd's Constitution of 1701. It was under his leadership that the Colony was reorganized as a Commonwealth. As President, Vice-President, Assembly leader, and Judge of the highest two courts, he was the author of nearly all the vital laws and precedents—executive, legislative and judicial—adopted during his time.

The author is a trained writer, saturated with a knowledge of Pennsylvania's history and his book shows evidence of his deep learning. He has marshalled his facts in such logical sequence, and in such an interesting manner, that the reader will get a vivid picture of the times shortly before, during, and immediately after the Revolution. The book is of more than usual importance to those who are interested in Constitutional law and Constitutional development, not only in Pennsylvania, but throughout the Union.

Columbia Conferences

The special conferences in jurisprudence form a new feature in the summer session at Columbia University, which will be held from July 10 to August 18, 1922. These conferences will examine, from three widely separated but converging points of view, some of the fundamental ideas of law.

To what extent does law modify itself progressively to conform to changing conditions of society? What are the obstacles to such modification, and are they being adequately overcome by our processes of judicial and legislative lawmaking?

What is the relation of law to logic and ethics—to philosophy, as understood by philosophers in successive periods? Does the logic of law agree with the logic of life? Is the law based on a different standard of ethics from that of daily life?

What is the present meaning of legal terms long in use by lawyers and the courts? Will the legal concepts represented by accepted forms of expression bear the scrutiny of searching analysis? Is it possible for courts not only to mean what they say, but to say what they mean in language more precise than that hitherto used?

These questions will be discussed by Professor Roscoe Pound, Professor John Dewey, and Professor Walter W. Cook, whose combined views will form a unique synthesis.

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Travels Out of the Record

Wears Well.

My lawyer said the case I had
Was strong—it now appears
He must have meant 'twas durable
And would last for many years.
—Boston Transcript.

Queer. Young Smoother was in a reflective mood in one corner of the club room.

"When," he muttered to himself, "I compare the one or two creditors I have with the millions and millions of persons to whom I owe nothing, I wonder why in the world those chaps make such a confounded noise about it." —Public Ledger.

Light Comment. Nebraska paper: "Bertha D. Wicks has asked for a decree of divorce from her husband, with restoration of her former name, Bertha Lamp."

"In other words," writes G. M. B., "Mr. Wick is about to be trimmed for alimony." —Boston Transcript.

One Briggs Missed. Suppose, having left it standing at the curb longer than you intended, you approach your car and see a tag fluttering from the wind shield, and tremblingly you read on the tag words that conjure up visions of courts and judges and fines and everything; and suppose in a cold sweat you read on, and lo! it merely says, "You are summoned to appear at" some blankety-blank festival or other—Oh, boy! ain't it a gr-r-rand and glo-o-rious feelin'?
—Boston Transcript.

Bar and Bench. "Even courts have been known to make rulings thought by counsel to be erroneous." Crane v. Hahlo, U. S. Adv. Ops. 1921–22, p. 251.

Enough and to Spare. Recently an attorney addressed the United States Supreme Court as follows: "If your Honors please, I move the admission of Mr. X., a member of the bar of Arkansas for more than three years. Mr. X. is of good moral character, and otherwise qualified for admission to practise in this court."

Chief Justice Taft: "The rules only require fair moral character."

The applicant, having exceeded the requirements of the court, was duly admitted to practise.

Some Detective. A lot of bank notes had been stolen in London, and word reached a detective that an old woman who was a notorious "fence" had at least one of them. Proceeding to her house he made a thorough search of the rooms, but without success.

Turning to the woman and handing her back the candle she had lent him to work with, he said, "Well, this time, I confess I am beaten. Tell me where it is, mother, and I'll get you off."

The promise was sufficient. "You've had it in your hand for the last half hour," she said, "and gave it me back this minute. It's wrapped around the candle." —Boston Transcript.

Idem Sonans. His name was "Chu Hop," and, strangely enough, he was accused in a Manila court of opium eating.

Time for Prayer. A visitor at the capitol was accompanied by his small son. The little boy watched from the gallery when the House came to order.

"Why did the minister pray for all those men, papa?" he questioned.

"He didn't. He looked 'em over, and prayed for the country," was the answer. —From the London Blighty.

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